

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSEPH SILBERMAN,

Civil Action No.

19

1013

Plaintiff,

-against-

COMPLAINT

S & I SERVICES, INC. and
YAAHKOV A. GERLITZ,

DEMAND FOR JURY TRIAL

Defendants.

Plaintiff, JOSEPH SILBERMAN (hereinafter, "Plaintiff"), a New York resident, brings this Complaint by and through his undersigned counsel, against Defendants S & I SERVICES, INC. and YAAHKOV A. GERLITZ.

INTRODUCTION/PRELIMINARY STATEMENT

1. The Plaintiff brings this personal injury claim, having suffered serious and grievous injuries as a result of the Defendants' negligence. Specifically, on September 12, 2018, the Plaintiff was a passenger in a motor vehicle owned and maintained by Defendant S & I SERVICES, INC., and operated by Defendant YAAHKOV A. GERLITZ. Because of the Defendants' negligence, the subject vehicle was involved in a motor vehicle accident in which Plaintiff suffered grievous injuries. As a result, the Plaintiff has been forced to undergo extensive medical treatment and hospitalization, emergency surgery, months of physical therapy and a continued inability to work.

PARTIES

2. Plaintiff is a natural person who is a citizen of the State of New York, has his permanent residence in the State of New York and is domiciled in the State of New York.
3. Defendant S&I Services, Inc. is a corporation incorporated in the State of Pennsylvania,

with its sole and principal place of business located at 247 Empire Drive, Mifflintown Mifflin PA 17059.

4. Defendant Yaahkov A. Gerlitz is a natural person who is a citizen of the State of New Jersey, has his permanent residence in the State of New Jersey and is domiciled in the State of New Jersey.

JURISDICTION AND VENUE

5. This Court has diversity jurisdiction over this matter pursuant to 28 USC §1332, as this action involves (1) a single Plaintiff, who is a citizen of the State of New York, and (2) two Defendants, neither of whom is a citizen of the State of New York and who are citizens of either Pennsylvania and New Jersey, and (3) an amount in controversy well exceeding \$75,000.00, due to the nature of the serious and debilitating injuries suffered by the Plaintiff.
6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) because the subject motor vehicle accident happened in this district, namely in Bethel Township, Berks County, Pennsylvania.

NATURE OF THE ACTION

7. Plaintiff brings this action to recover damages for his serious personal injuries suffered solely as a result of the Defendants' negligence.

ALLEGATIONS OF FACT

8. Plaintiff repeats and incorporates the allegations contained in paragraphs numbered above herein with the same force and effect as if the same were set forth at length herein.
9. On September 12, 2018, the defendant, **Yaahkov A. Gerlitz**, was the operator of a motor vehicle, namely a 2006 Toyota Sienna minivan bearing License Plate KSF-9040, registered

in the State of Pennsylvania.

10. On September 12, 2018, the defendant, **S&I Services, Inc.**, owned the aforementioned motor vehicle.
11. On September 12, 2018, the defendant, **S&I Services, Inc.**, managed the aforementioned motor vehicle.
12. On September 12, 2018, the defendant, **S&I Services, Inc.**, was responsible for the repairs of the aforementioned motor vehicle.
13. On September 12, 2018, the defendant, **S&I Services, Inc.**, controlled the aforementioned motor vehicle.
14. On September 12, 2018, the defendant, **S&I Services, Inc.**, entrusted Defendant **Yaahkov A. Gerlitz** with the use and operation of the aforementioned motor vehicle.
15. On September 12, 2018, Defendant **Yaahkov A. Gerlitz** operated the aforementioned motor vehicle with the knowledge of Defendant **S&I Services, Inc.**
16. On September 12, 2018, Defendant **Yaahkov A. Gerlitz** operated the aforementioned motor vehicle with the permission of the Defendant **S&I Services, Inc.**
17. On September 12, 2018, the defendant, **Yaahkov A. Gerlitz**, managed the aforementioned motor vehicle.
18. On September 12, 2018, the defendant, **Yaahkov A. Gerlitz**, controlled the aforementioned motor vehicle.

COUNT I
(Negligence)

19. Plaintiff repeats and incorporates the allegations contained in paragraphs numbered above herein with the same force and effect as if the same were set forth at length herein.

20. On September 12, 2018, at approximately 08:05 a.m., the Plaintiff was a passenger in the aforementioned 2006 Toyota minivan operated by defendant, **Yaahkov A. Gerlitz** as it traveled on the Off-Ramp D1 exiting Interstate 78 at its intersection with Camp Swatara Road in Bethel Township, Pennsylvania.
21. At that time, the aforementioned 2006 Toyota minivan operated by defendant, **Yaahkov A. Gerlitz** disobeyed a stop sign and was immediately struck by a vehicle owned and operated by non-party Martha Weaver as that vehicle traveled southbound on Camp Swatara Road.
22. The Plaintiff suffered serious, grievous, and permanent injuries as a result of the subject motor vehicle accident.
23. The accident and the injuries resulting therefrom to Plaintiff were caused solely and wholly by reason of negligence, recklessness and carelessness of the Defendants, directly and vicariously, without any negligence on the part of the plaintiff contributing thereto.
24. The above stated occurrence and the results thereof were in no way due to any negligence on the part of the Plaintiff contributing thereto, but were caused by the negligence of the Defendants in the ownership, operation, management, maintenance and control of the aforementioned motor vehicle; in operating same without due regard to the rights and safety of the Plaintiff; in operating said motor vehicle in a manner which unreasonably endangered the Plaintiff in failing to properly steer, guide, manage and control said vehicle; in operating same at a rate of speed greater than was reasonable and proper at the time and place of the occurrence; in failing to apply the brakes or slow down or stop in such a manner as would have prevented the occurrence; in negligently failing to properly maintain the aforementioned motor vehicle; in negligently entrusting the aforementioned

motor vehicle to be used and operated by the defendant; in failing to have made adequate and timely observation of and response to conditions; in failing to stop before a collision with Ms. Weaver's vehicle occurred; in failing to obey traffic control devices, particularly a stop sign, present at the place of occurrence; in failing to observe signs and signals prevailing at the time and place of the occurrence; in failing to keep proper look-out when controlling said vehicle; in failing to properly maintain said vehicle according to law; in failing to give adequate and timely signal, notice or warning; in operating said motor vehicle in violation of the traffic rules, regulations, statutes and ordinances in such cases made and provided; and in being otherwise careless, reckless, and negligent in the ownership, maintenance, operation and control of said motor vehicle.

25. Solely by reason of the foregoing, the Plaintiff became and was rendered sick, sore, lame and disabled; received severe, serious and permanent injuries in and about diverse parts of his person; experienced great pain and suffering and plaintiff suffered and still suffers from said injuries; and plaintiff have been informed and verily believes said injuries to be of permanent nature; and plaintiff was incapacitated and will continue to be incapacitated from attending to usual duties, hobbies, activities and avocation; and plaintiff were compelled to and did seek hospitalization, medical care and treatment and will require further medical care and treatment in the future; and plaintiff was caused to and did expend diverse sums of money in an effort to cure and heal himself and will in the future be required to incur additional expenses for such medical and other aid; and plaintiff in other ways sustained the loss of diverse sums of money, all of which will continue into the future.
26. The Plaintiff suffered serious, grievous, and permanent injuries as a result of the subject motor vehicle accident, including cervical fractures and spinal cord compression, which

required immediate surgical intervention and lengthy hospital stays and rehabilitation to repair.

27. Furthermore, as a result of the Defendants' negligence, Plaintiff has been disabled and unable to work since the September 12, 2018, thereby losing tens of thousands of dollars in lost wages.

28. Plaintiff's injuries were caused solely by the negligence of the Defendants, and without any negligence on the part of the Plaintiff contributing thereto.

29. As a result of the Defendants' actions, Plaintiff's life and limb has been severely harmed, and the Plaintiff therefore seeks \$5,000,000.00 in compensation for those injuries.

DEMAND FOR TRIAL BY JURY


30. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- (a) that Plaintiff be awarded a judgment in an amount no less than \$5,000,000.00;
- (b) for the costs and disbursements of this action; and
- (c) such other and further relief as this Court may deem just and proper.

Dated: March 6, 2019

By: /s/ Ari H. Marcus 
Ari H. Marcus, Esq.
Marcus & Zelman, LLC
701 Cookman Avenue, Suite 300
Asbury Park, NJ 07712
Office: (732) 695-3282
Fax: (732) 298-6256
Email: Ari@MarcusZelman.com
Website: www.MarcusZelman.com

CIVIL COVER SHEET

19-cv-1013

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

JOSEPH SILBERMAN

DEFENDANTS

S & I SERVICES, INC. and YAAHKOV A. GERLITZ

(b) County of Residence of First Listed Plaintiff **Rockland**
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

(c) Attorneys (Firm Name, Address and Telephone Number)

Marcus & Zelman 701 Cookman Ave Ste 300 Asbury Park NJ 07712
Tel: 732.695.3282 Email: ari@marcuszelman.com

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|---|---|--|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609 |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | <input type="checkbox"/> 424 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

Brief description of cause

Personal injury - motor vehicle negligence

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

MAR - 8 2019

DATE
03/06/2019SIGNATURE OF ATTORNEY OF RECORD
/s/ Ari Marcus

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

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1013

(to be used by court or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 68 Bates Drive, Monsey, NY 10952

Address of Defendant: 247 Empire Drive, Mifflin PA 17059

Place of Accident, Incident or Transaction: Bethel Township, PA

RELATED CASE, IF ANY:

Case Number: Judge: Date Terminated:

Civil cases are deemed related when **Yes** is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes ☐ No ☒

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE March 6, 2019

322283

Attorney-at-Law / Pro Se Plaintiff

Attorney I D # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1 Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2 FELA
- ☐ 3 Jones Act-Personal Injury
- ☐ 4 Antitrust
- ☐ 5 Patent
- ☐ 6 Labor-Management Relations
- ☐ 7 Civil Rights
- ☐ 8 Habeas Corpus
- ☐ 9 Securities Act(s) Cases
- ☐ 10 Social Security Review Cases
- ☒ 11 All other Federal Question Cases

(Please specify) Personal Injury - Motor Vehicle

B. Diversity Jurisdiction Cases:

- ☐ 1 Insurance Contract and Other Contracts
- ☐ 2 Airplane Personal Injury
- ☐ 3 Assault, Defamation
- ☐ 4 Marine Personal Injury
- ☐ 5 Motor Vehicle Personal Injury
- ☐ 6 Other Personal Injury (Please specify) _____
- ☐ 7 Products Liability
- ☐ 8 Products Liability -- Asbestos
- ☐ 9 All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, An Marcus, counsel of record or pro se plaintiff, do hereby certify

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:☐ Relief other than monetary damages is sought.

MAR - 8 2019

DATE March 6, 2019

322283

Attorney-at-Law / Pro Se Plaintiff

Attorney I D # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F R C P 38

JD

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

JOSEPH SILBERMAN,

Plaintiff

CIVIL ACTION

V.

S&I SERVICES, INC. and

YAAHKOV A. GERLITZ,

Defendants

NO.

19

1013

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management - Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

March 6, 2019

Ari Marcus

Plaintiff, Joseph Silberman

Date

Attorney-at-law

Attorney for

732.695.3282

732.298.6256

ari@marcuszelman.com

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

MAR - 8 2019